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6 **IN THE UNITED STATES DISTRICT COURT**  
7 **FOR THE DISTRICT OF ARIZONA**  
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9 Frank Arnhoelter,

10 Plaintiff,

11 v.

12 Armin Kaus, Leeza Hughes, Klaus Sivec,  
13 Marie Sivec, and Med Fibers Incorporated,

14 Defendants.

No. CV-20-00403-PHX-JAT

**ORDER**

15 This case was removed to federal court on February 24, 2020, by five Arizona  
16 resident Defendants. Generally, if any defendant is a resident of this state, a case based on  
17 diversity jurisdiction cannot be removed. 28 U.S.C. § 1441(b)(2) (“A civil action otherwise  
18 removable solely on the basis of the jurisdiction under section 1332(a) of this title may not  
19 be removed if any of the parties in interest properly joined and served as defendants is a  
20 citizen of the State in which such action is brought.”) However, this Court cannot remand  
21 a case sua sponte for a non-jurisdictional defect in removal procedure. *Kelton Arms*  
22 *Condominium Owners, Ass’n, Inc. v. Homestead Insurance Co.*, 346 F.3d 1190, 1191 (9th  
23 Cir. 2003).

24 Therefore,

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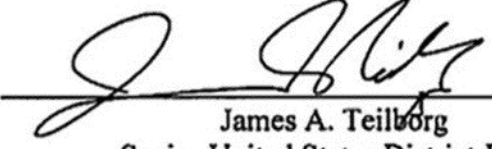
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1           **IT IS ORDERED** that if Plaintiff objects to removal, Plaintiff must file a timely  
2 motion to remand.

3           Dated this 25th day of February, 2020.

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8           James A. Teilborg  
9           Senior United States District Judge  
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